

APPEAL NO. 023197
FILED FEBRUARY 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 31, 2002. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the sixth quarter. The appellant (carrier) appeals the determination, asserting that the claimant did not make a good faith effort to obtain employment commensurate with her ability to work. The claimant urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is entitled to SIBs for the sixth quarter. Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) set out the requirements for SIBs under a "no ability to work" theory. The carrier does not appear to dispute the existence of a narrative report, which specifically explains how the injury causes a total inability to work. Rather, the carrier contends that the claimant is not entitled to sixth quarter SIBs because other records, including a statement from the claimant's treating doctor, show that the claimant had some ability to work during the qualifying period. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer determined that the "other records" did not show an ability to work and/or were not credible because they failed to fully consider the claimant's condition and the claimant's latest medical records. In view of the evidence presented and the applicable law, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **RCH PROTECT COOPERATIVE** and the name and address of its registered agent for service of process is

**KEVIN REID
1801 SOUTH MOPAC, SUITE 300
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge